

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROSE GRAHN,

Plaintiff,

-against-

DOVER PUBLICATIONS, INC.,

Defendant.
-----X

MEMORANDUM AND ORDER

CV 05-5270

(Wexler, J.)

APPEARANCES:

FRANK & ASSOCIATES, P.C.
BY: ILANA L. DEUTSCH, ESQ.
500 Bi-County Boulevard, Suite 112N
Farmingdale, New York 11735
Attorneys for Plaintiff

GOODWIN PROCTER LLP
BY: JAMES W. NAGLE, P.C., ESQ.
Attorneys for Defendant
Exchange Place
Boston, Massachusetts 02109-2881


WEXLER, District Judge

This is an employment discrimination action commenced by Rose Grahm against Defendant Dover Publications, Inc. Presently before the court is the objection of Plaintiff to a discovery ruling of Magistrate Judge William D. Wall dated November 28, 2006. That order granted Defendant's motion to preclude use of certain documents at trial and awarded Plaintiff, pursuant to Rule 37(c)(1) of the Federal Rules, expenses in the amount of \$500. In his decision Magistrate Judge Wall noted that Plaintiff was in possession of the documents throughout the discovery period but chose not to produce them until a month after discovery had closed.

Plaintiff showed neither justification for the late production nor that the failure to produce was harmless. In view of these facts, Magistrate Judge Wall held that Plaintiff would be precluded from use of the documents at trial and should pay reasonable expenses to Defendant.

Pursuant to Rule 72 of the Federal Rules of Civil Procedure this court shall modify or set aside any part of an order appealed from a Magistrate Judge that is "clearly erroneous or contrary to law." FRCP 72(a). This court has reviewed the order of Magistrate Judge Wall as well as the submissions of the parties and concludes that the appeal should be denied. Accordingly, Plaintiff's objections are hereby overruled and the November 28, 2006 Order of Magistrate Judge Wall is affirmed.

SO ORDERED.


LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
January 30, 2007